

James C. Miller III

32 Pophams Ford Road Sperryville, Virginia 22740 PHN: 540-987-8920 FAX: 540-987-8930

March 8, 2006

PREPARED STATEMENT before the Subcommittee on Regulatory Affairs of the Committee on Government Reform of the U.S. House of Representatives

Mdme. Chairman and members of the committee: thank you for inviting me to appear before you today to discuss reauthorization of the Paperwork Reduction Act (PRA).

As you may know, I was the first Administrator of the Office of Information and Regulatory Affairs (OIRA), which was established by the Act. Subsequently, I served as Chairman of the Federal Trade Commission and as Director of the Office of Management and Budget, also under President Reagan, and now serve as Chairman of the Board of Governors of the U.S. Postal Service, having been appointed by President George W. Bush, confirmed by the Senate, and elected chairman by my colleagues on the Board. In addition, I serve on the boards of directors of five companies and am a consultant to Freddie Mac.

Enacting the PRA is one of the best things Congress and the President have accomplished. Moreover, it was truly a bipartisan effort, with genesis in the Commission on Federal Paperwork and championed by Congressmen Jack Brooks and Frank Horton. It was signed into law by President Carter – the very last bill he signed.

Here's why the PRA is so important: First, the stakes are enormous. According to The Tax Foundation, the annual federal paperwork burden just for the income tax portion of the Internal Revenue Code exceeds \$256 billion. Of course, the PRA covers more than just the Internal Revenue Service (IRS) and more than just paperwork: it facilitates the President's program in regulatory control. Estimates by Professor Mark Crain place the cost of the annual federal regulatory burden (including paperwork) at \$1,113 billion. Thank of that: the federal regulatory burden is nearly half as large as the entire federal budget, and handily exceeds total discretionary spending!

Overall, successive Administrations have done a good job in employing the Act. Just a quick look at the OIRA home (web) page is evidence of the range and depth of the work carried out by the professionals at OIRA. Yet, as with all institutions, the work of OIRA could be improved – as discussed below.

The work of OIRA and other federal agencies should be guided by three principles. First, before increasing the paperwork burden or issuing a new regulation, policymakers should have adequate information. This seems straightforward common sense, but as I'm sure you have experienced, the principle is not always observed. Agencies have time demands, and analysis often takes a back seat. Their most vocal constituents are supporters of the rule, and there's a tendency to grease the squeaky wheel. The beneficiaries of a new rule tend to be informed, relatively small in number, well-organized, and make their views well known; those who bear the costs tend to be ill-informed, large in number, not organized, and silent.

Second, they should apply the principle of cost-effectiveness. This too is common sense. It simply means that each paperwork requirement or rule should be designed so that for any given cost burden a maximum of benefits are secured. Or, the flip side, for any given level of benefits generated, the initiative should impose the lowest cost.

The third principle is that the requirement or rule should be neither too much nor too little. This principle is more difficult to apply in practice than the other two, but builds on both. Assume you have requisite information and have performed cost-effectiveness analysis, so that for each relevant level of stringency of the requirement or rule you have estimates of both benefits and costs. The appropriate level of stringency is not the level where the benefits equal the costs, but where the excess of benefits over costs is at a maximum.

These principles were articulated by President Reagan and OIRA back in 1981 and have been followed reasonably faithfully since. But, Mdme. Chairman, as your letter of invitation indicates, there is certain unhappiness over the fact that since the 1980s the paperwork burden has grown considerably, despite explicit reduction goals. Please let me comment on the problem and then suggest a few solutions.

As you note, approximately 80 percent of the federal paperwork burden is imposed by the IRS. Is the fact this burden has grown steadily the fault of the IRS? Perhaps to some extent. The fault of OIRA? Conceivably. Actually, the major fault is with successive Congresses and Presidents which/who have enacted ever-more complicated tax codes. Whatever the year, "tax simplification" inevitably results in more tax reports and more complicated returns. If you really want to reduce the tax burden, enact a flat tax – either on income or on sales. Also, consider having people file every other year instead of every year. For example, those who were born (or incorporated, in the case of businesses and non-profits) in an odd-numbered year would file in odd-numbered years and those in even-numbered years would file in even-numbered years (with simple rules for joint returns). This would not cut the paperwork burden in half,

but would reduce it considerably.

Similarly, in the regulatory area, a major problem is mandates. Sometime Congress and the President mandate certain regulations “regardless of cost.” Sometimes Congress and the President impose unrealistically short timetables in regulatory bills, giving OIRA and the agencies little or no time to collect the data and perform the requisite analysis. Also, there is the question of whether OIRA has enough “clout” with the agencies – a matter exacerbated when Congress and the President formally separated the management and budget functions in OMB.

If you'll permit me a level of abstraction, your committee and your equivalent committee in the Senate are the only ones whose focus is on limiting the paperwork and regulatory burdens. Other committees have as their focus activities which increase these burdens. Somehow, you need to arrange things so that all committees (and Members) have a balanced view of the benefits and costs of paperwork and regulatory activity.

My suggestion is that Congress pass and the President sign legislation establishing a paperwork/regulatory budget. Just think of the disparity between the Congressional/Administration resources that currently go into the federal financial budget each year, and the attention given to the costs (and benefits) of paperwork/regulatory activity. I realize, of course, there are defects in the current committee system, where Ways and Means (or Finance, in the Senate) and all the Appropriations subcommittees have a focus which is narrower than the entire budget. But that defect is partly – only partly -- remedied by the reconciliation process.

What I propose is that each year the President propose to Congress along with the conventional financial budget a paperwork/regulatory budget that would have to be enacted. Burdens pursuant to requirements/rules presently in force would be treated in the same way as entitlements in the financial budget – they could continue to be imposed unless Congress and the President enacted lower limits. But new requirements/regulations, as with discretionary spending, would have to be “appropriated” and could not be promulgated unless they were within the scope of the relevant “appropriation.”

Mdme. Chairman, this completes my statement. I shall be happy to address any questions you and your colleagues may have.